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**Technology Center 2100**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/588,875

Filing Date: June 06, 2000

Appellant(s): KIRANI ET AL.

Judith A. Szepesi, Reg. No. 39,393  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 06/26/2006 appealing from the Office action mailed 10/20/2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6438576	Huang et al.	08-2002
6389460	Stewart et al.	05-2002
6289375	Knight et al.	09-2001
6141686	Jackowski et al.	10-2000

6411685                    O'Neal                    06-2002

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 – 12, 14 – 19, 22 – 29, 31 – 36, 38 – 44 and 46 – 70 are presented for examination.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1 – 5, 7, 9, 11, 12, 14 – 19, 24 – 27, 31, 32, 36, 38 – 43, 46 – 53, 56 – 59, 62, 63 and 67 – 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al. (6438576) (hereinafter Huang) in view of Stewart et al. (6389460) (hereinafter Stewart).**

Referencing claim 1, as closely interpreted by the Examiner, Huang teaches in an online system, a method for providing digital photographic images to target devices, the method comprising: receiving a request to provide a target device with a copy of a particular photographic image, (e.g. col. 10, line 20 – col. 11, line 5); determining capabilities of the target device, (e.g. col. 10, line 20 – col. 11, line 5);

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based on the capabilities of the target device, determining an image format that is desired for providing the target device with a copy of the particular photographic image, (e.g. col. 10, line 20 – col. 11, line 5);

if a cached copy exists, providing the target device with the cached copy of the particular photographic image and thereafter terminating the method, (e.g. col. 7, line 23 – col. 8, line 10 & col. 10, line 20 – col. 11, line 5);

if a cached copy does not exist, translating the particular photographic image into a copy having said determined image format, (e.g. col. 7, line 23 – col. 8, line 10 & col. 10, line 20 – col. 11, line 5); and

providing the target device with the copy having said determined image format, (e.g. col. 7, line 23 – col. 8, line 10 & col. 10, line 20 – col. 11, line 5).

Huang does not specifically teach generating a cache lookup key based on the identity of the particular photographic image and the image format specified by the target device; determining whether a cached copy of the particular photographic image already exists in said determined image format using the cache lookup key.

Stewart also teaches based on the capabilities of the target device, determining an image format that is desired for providing the target device with a copy of the particular photographic image, (e.g. col. 2, line 46 – col. 3, line 20 & col. 11, lines 1 – 12, “*image type*”); generating a cache lookup key based on the identity of the particular photographic image and the media format specified by the target device, (e.g. col. 11, lines 1 – 25);

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determining whether a cached copy of the particular photographic image already exists in said determined image format using the cache lookup key, (e.g. col. 11, lines 1 – 25 & col. 15, lines 1 – 17 “*block 412*”);

if a cached copy does not exist, translating the particular photographic image into a copy having said determined image format, (e.g. col. 2, line 46 – col. 3, line 20 & col. 11, lines 1 – 12, “*image type*”); and

providing the target device with the copy having said determined media format, (e.g. col. 2, line 46 – col. 3, line 20 & col. 11; lines 1 – 12, “*image type*”). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Stewart with Huang because it would be more convenient for a system to utilize a widely known technique of data storage such as indexing or otherwise known as a lookup key to retrieve commonly used files from a system. Furthermore, all files that are saved in an area will have the extension of the file that designates what format the file is, (example: photo.jpeg, document.txt, movie.mpeg, etc.).

It is still recommended that the Applicant be more specific in this area to overcome the rejection as stated above using more descriptive language on how the generating occurs and what specifically is used in the generation.

Referencing claim 2, as closely interpreted by the Examiner, Huang teaches storing the copy having said determined format in a cache memory, (e.g. col. 7, line 23 – col. 8, line 10 & col. 10, line 20 – col. 11, line 5).

Referencing claim 3, as closely interpreted by the Examiner, Huang teaches receiving from the target device a subsequent request for the particular photographic image, (e.g. col. 6, lines 39 – 67 & col. 11, lines 15 – 55); and

providing the target device with the copy stored in said cache memory, (e.g. col. 6, lines 39 – 67 & col. 11, lines 15 – 55).

Referencing claim 4, as closely interpreted by the Examiner, Huang teaches said request specifies a photographic identifier, (photo ID), (e.g. col. 10, line 20 – col. 11, line 5 & col. 11, lines 15 – 55).

Referencing claim 5, as closely interpreted by the Examiner, Huang teaches said photo ID comprises a unique ID created by said online system for identifying photographic images, (e.g. col. 10, line 20 – col. 11, line 5 & col. 11, lines 15 – 55).

Referencing claim 9, as closely interpreted by the Examiner, Huang teaches said request specifies a user identifier (user ID), (e.g. col. 10, line 20 – col. 11, line 5 & col. 11, lines 15 – 55).

Referencing claim 11, as closely interpreted by the Examiner, Huang teaches the capabilities of the target device include one or more of the following: screen resolution, screen size, and color support, (e. g. col. 5, line 42 – col. 6, line 4 & col. 11, lines 15 – 56).

Referencing claim 14, as closely interpreted by the Examiner, Huang teaches the capabilities of the target device include currently-available communication medium that the target device employs to transmit its request, (e.g. col. 1, lines 29 – 67 & col. 6, lines 24 – 38).

Referencing claim 15, as closely interpreted by the Examiner, Huang teaches currently-available communication medium comprises wireless communication, (e.g. col. 1, lines 29 – 67 & col. 6, lines 24 – 38).

Referencing claim 16, as closely interpreted by the Examiner, Huang teaches currently-available communication medium comprises wireline communication, (e.g. col. 1, lines 29 – 67 & col. 6, lines 24 – 38).

Referencing claim 17, as closely interpreted by the Examiner, Huang teaches said step of determining capabilities of the target device includes: querying the device for its capabilities, (e.g. col. 5, line 42 – col. 6, line 4 & col. 11, lines 15 – 56).

Referencing claim 18, as closely interpreted by the Examiner, Huang teaches said step of determining capabilities of the target device includes: determining capabilities from a knowledgebase, based on a device class for the target device, (e.g. col. 3, line 38 – col. 4, line 7).

Referencing claim 19, as closely interpreted by the Examiner, Huang teaches determining a format that is desired comprises one or more of the following: determining an appropriate

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resolution for rendering the particular photographic image at the target device, (e.g. col. 5, line 42 – col. 6, line 4 & col. 11, lines 15 – 56), determining an appropriate color space for rendering the particular photographic image at the target device, (e.g. col. 5, line 42 – col. 6, line 4 & col. 11, lines 15 – 56), and determining an appropriate image size for rendering the particular photographic image at the target device, (e.g. col. 5, line 42 – col. 6, line 4 & col. 11, lines 15 – 56).

Referencing claim 24, as closely interpreted by the Examiner, Huang teaches said target device includes a handheld computing device having display capability, (e.g. col. 1, lines 29 – 67 & col. 6, lines 24 – 38).

Referencing claim 25, as closely interpreted by the Examiner, Huang teaches said target device includes a cellular phone device having display capability, (e.g. col. 1, lines 29 – 67 & col. 6, lines 24 – 38).

Referencing claim 26, as closely interpreted by the Examiner, Huang teaches said target device includes a pager device having display capability, (e.g. col. 1, lines 29 – 67 & col. 6, lines 24 – 38).

Referencing claim 27, as closely interpreted by the Examiner, Huang teaches said target device includes a personal computer having display capability, (e.g. col. 1, lines 29 – 67 & col. 6, lines 24 – 38).

Referencing claim 31, as closely interpreted by the Examiner, Huang teaches based on the capabilities of the target device, determining metadata for the particular photographic image that may be provided to the target device, (e.g. col. 9, line 56 – col. 10, line 45).

Referencing claim 32, as closely interpreted by the Examiner, Huang teaches said metadata includes attribute information for the particular photographic image, (e.g. col. 9, line 56 – col. 10, line 45).

Claims 7, 36, 38 – 43, 46 – 53, 56 – 59, 62, 63 and 67 – 69 are rejected for similar reasons as stated above.

**Claims 6 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (6438576) in view of Stewart (6389460) in further view of Foster et al. (6202097) (hereinafter Foster).**

As per claim 6, as closely interpreted by the Examiner, Huang and Stewart do not specifically teach said photo ID is created from one or more of the following: and auto-incrementing counter, and a system time stamp. Foster teaches said photo ID is created from one or more of the following: and auto-incrementing counter, and a system time stamp, (e.g. col. 10, lines 25 – 42). It would be obvious to one skilled in the art at the time the invention was made to combine Foster with the combine system of Huang and Stewart because it is common knowledge that if a

user desires to save a file that has the same or similar name as an existing file, the program that is saving the file would increment the file name, example, if there is a file named “pic.jpeg” and a user would like to have the same beginning the program would choose the next number, since the number being used is null or 0, which would be “pic1.jpeg”. If this would be a recurring action, then the next file names would be for example, “pic2.jpeg”, “pic3.jpeg”, etc. of similar reasons stated above.

Claim 41 is rejected for similar reasons as stated above.

**Claims 8 and 70 rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (6438576) in view of Stewart (6389460) in further view of Knight et al. (6289375) (hereinafter Knight).**

As per claim 8, as closely interpreted by the Examiner, Huang and Stewart teach all that is similar to claim 8 above including cache lookup key using the photo ID and parameters. Knight teaches a hash key and hashing using multiple parameters form the target device, (e.g. col. 20, line 38 – col. 21, line 23). It would be obvious to one skilled in the art at the time the invention was made to combine Knight with the combine system of Huang and Stewart because utilizing multiple parameters for hashing could ensure that no intruders can access the information located in a remote device. Furthermore, using parameters taken form the requesting user, i.e. transmission speed, resolution, screen size, ensures that the device that is requesting a image will

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have a specific type of hash that is unique to that users device, making for a faster and more secure retrieval.

Claim 70 is rejected for similar reasons as stated above.

**Claims 12 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (6438576) in view of Stewart (6389460) in further view of what is well known in the art.**

As per claim 12, as closely interpreted by the Examiner, Huang and Stewart do not specifically teach the photographic image is an artwork.

Examiner takes Official Notice (see MPEP § 2144.03) that "a photographic image is an artwork" in a computer networking environment was well known in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03, namely, "if applicant traverses such an assertion, the examiner should cite a reference in support of his or her position". However, MPEP § 2144.03 further states "See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, In re Boon, 169 USPQ 231, 234 states "as we held in Ahlert, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states

"Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight. Furthermore, applicant does not disclose what is considered artwork to the Applicant. What could be considered "artwork" to the Applicant could be ugly to the Examiner or any other viewer.

Applicant has failed to seasonably challenge the Examiner's assertions of well known subject matter in the previous Office action(s) pursuant to the requirements set forth under MPEP §2144.03. A "seasonable challenge" is an explicit demand for evidence set forth by Applicant in the next response. Accordingly, the claim limitations the Examiner considered as "well known" in the first Office action, i.e. a photographic image is an artwork, are now established as admitted prior art of record for the course of the prosecution. See *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

Claim 44 is rejected for similar reasons as stated above.

**Claims 10, 22, 23, 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (6438576) in view of Stewart (6389460) in further view of Jackowski et al. (6141686) (hereinafter Jackowski).**

As per claim 10, as closely interpreted by the Examiner, Huang and Stewart do not specifically teach said user ID comprises a unique ID created by said online system for identifying users. Jackowski teaches said user ID comprises a unique ID created by said online system for

identifying users, (e.g. col. 2, lines 32 – 44). It would be obvious to one skilled in the art at the time the invention was made to combine Foster with the combine system of Huang and Stewart because it is common for the Internet/ISP to assign IP addresses to devices that log into the Internet so that hackers and other Internet pirates can not use the same IP address for the same user every time the user logs into the Internet, adding security to a system.

As per claim 22, as closely interpreted by the Examiner, Huang and Stewart do not specifically teach determining communication bandwidth available for transmitting a copy of the particular photographic image to the target device. Jackowski teaches determining communication bandwidth available for transmitting a copy of the particular photographic image to the target device, (e.g. col. 2, line 65 – col. 3, line 10). It would be obvious to one skilled in the art at the time the invention was made to combine Foster with the combine system of Huang and Stewart because it would be more efficient for a system to allocate or determine the available bandwidth to a target device so to transmit packets to the target device at a rate that would not cause traffic in the network that the device could not handle, therefore causing errors and bottlenecking.

As per claim 23, as closely interpreted by the Examiner, Huang and Stewart do not specifically teach the communication bandwidth available is determined, at least in part, based on a device class for the target device, (e.g. col. 2, line 65 – col. 3, line 10). It would be obvious to one skilled in the art at the time the invention was made to combine Foster with the combine system of Huang and Stewart because of similar reasons as stated above and further, it is well known in the art that the bandwidth and protocol difference between wireless and wireline are different

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enough that if the system would know at transmission time the difference just from sending out a signal to determine if the device exist The return signal to the device that is being transmitted from would have information about the type of protocol the client is using, therefore, knowing what class the device belongs to.

Claims 54 and 55 are rejected for similar reasons as stated above.

**Claims 28 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (6438576) in view of Stewart (6389460) in further view of the Applicant's admitted prior art.**

As per claim 28, as closely interpreted by the Examiner, Huang teaches wireless communication but does not specifically teach said target device includes WAP (Wireless Application Protocol) support. Applicant admits in the prior art on page 4 that said target device includes WAP (Wireless Application Protocol) support and is used in Internet communication. It would be obvious to one skilled in the art at the time the invention was made to combine the Applicant with the combine system of Huang and Stewart because it would be more convenient for a system to utilize a widely use wireless protocol in a system as opposed to developing a wireless protocol that is not widely used and would make the invention more difficult to sell to consumers because of the patches and other programs that would have to come with the invention to adapted to the already widely used WAP. Furthermore, adding extra protocol overhead will slow down the transmission of the data.

Claim 60 is rejected for similar reasons as stated above.

**Claims 29, 33 – 35, 61 and 64 – 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (6438576) in view of Stewart (6389460) in further view of O’Neal (6411685).**

As per claim 29, as closely interpreted by the Examiner, Huang and Stewart do not specifically teach said step of determining a format that is desired includes determining user preferences, if any, for rendering images at the target device. O’Neal teaches said step of determining a format that is desired includes determining user preferences, if any, for rendering images at the target device, (e.g. col. 2, lines 20 – 37). It would be obvious to one skilled in the art at the time the invention was made to combine O’Neal with the combine system of Huang and Stewart because it would be more convenient for a system to have the option to save data to a specific format chosen by the user incase the system/device that the user is using does not support a specific format. If the user didn’t have this option the data will be open as “gibberish” because of the lack of functionality of the device.

As per claim 33, as closely interpreted by the Examiner, Huang teaches metadata and all that is disclosed above but does not specifically teach said metadata includes annotations for the particular photographic image. O’Neal teaches said metadata includes annotations for the particular photographic image, (e.g. col.. 12, line 41 – col. 13, line 22). It would be obvious to

one skilled in the art at the time the invention was made to combine O'Neal with the combine system of Huang and Stewart because it would be more convenient for a system to utilize the functionality of an annotation, in voice or text, to describe to a viewer what the data is about, and for pictures, what the picture is about or a story that goes with the picture.

As per claim 34, as closely interpreted by the Examiner, Huang teaches all that is disclosed above but does not specifically teach said annotations include text data. O'Neal teaches said annotations include text data, (e.g. col.. 12, line 41 – col. 13, line 22). It would be obvious to one skilled in the art at the time the invention was made to combine O'Neal with the combine system of Huang and Stewart because it would be more convenient for a system to utilize the functionality of an annotation, in voice or text, to describe to a viewer what the data is about, and for pictures, what the picture is about or a story that goes with the picture.

As per claim 35, as closely interpreted by the Examiner, Huang teaches all that is disclosed above but does not specifically teach said annotations include voice data. O'Neal teaches said annotations include voice data, (e.g. col.. 12, line 41 – col. 13, line 22). It would be obvious to one skilled in the art at the time the invention was made to combine O'Neal with the combine system of Huang and Stewart because it would be more convenient for a system to utilize the functionality of an annotation, in voice or text, to describe to a viewer what the data is about, and for pictures, what the picture is about or a story that goes with the picture.

Claims 61 and 64 – 66 are rejected for similar reasons as stated above.

***Response to Arguments***

Applicant's arguments, see page 14 of the Remarks, filed 07/28/2005, with respect to 112 rejections, paragraphs 1 & 2, have been fully considered and are persuasive. Both rejections have been withdrawn.

Applicant's arguments filed 07/28/205, with regard to all rejections under 103, have been fully considered but they are not persuasive.

In the Remarks, Applicant states that the Examiner, in the Advisory Action stated that clarifying the term "format" to "image format" would be sufficient to overcome the current rejection over Huang and Stewart, and would require a new search. (Advisory Action, October 22, 2004).

As to part 1, the Examiner would like to point to the Advisory Action dated, October 22, 2004.

In which it states that, "If Applicant were to amend to say various "image" formats, this could overcome the rejection as it stands but would require further search and consideration."

Examiner never stated that the amendment would be sufficient to overcome the rejection.

Examiner has restated, at the end of the rejection to claim 1, amendment suggestions that could aid in furthering prosecution.

Applicant is invited to contact the Examiner for amendment ideas to add to the claim language to further distinguish the Applicant's invention to the prior art.

**(10) Response to Argument**

**In the Arguments**, Appellant argues in substance that Stewart does not discuss having multiple copies of a photographic image in different image formats stored in a cache, and performing a cache look-up based on the media format and image identity.

As to the first argument, against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As it was stated above Huang also teaches storing copies of a photographic image in different image formats stored in a cache, (e.g. col. 7, line 23 – col. 8, line 10), “*... the object request handler 205 checks with the cache manager 207 to determine if the requested object is available in the cache...*”, (col. 10, line 20 – col. 11, line 5), “*image object*”.

Furthermore, in the Appellant’s claim language, there is no statement or limitation as to determine what the Appellant means by the limitation of “format”. As it is well known in the art the definition of “format” can mean the structure or appearance of a unit of data. This would mean not only can the claim be interpreted as changing the file extension, example, image.gif changed to image.jpeg, but it can also mean that a resolution of the image is changed without changing the file extension or the actual size of the image, i.e., 8x10 picture to a 4x6. All these interpretations, along with many more, of the term “format” can be read into the claim language because the Appellant does not state what is their meaning of “format”. As taught by Huang, the image content is changed in format if the device can not handle the image object and therefore “formats” the image to accommodate the personal digital device (PDD), (e.g., col. 10, line 35 et

seq., as seen in the “r(c16 s 1000) to RHI d(c1 s2)” ). The Examiner also suggested this in previous actions and stated that this would be an appropriate amendment to the claims to overcome the prior art as stated above. Furthermore, Stewart is utilized to teach, in combination with Huang, a cache look-up key utilizing the identity of the particular photographic image and the image format that is desired, which will be discussed below.

**In the Arguments,** Appellant argues in substance that the prior art does not teach or suggest “a cache look-up key based on the identity of the particular photographic image and the image format that is desired.” Furthermore, Huang teaches away from the using a cache look-up key based in the image format as stated in Huang, column 7, lines 43-50. Stewart discusses extensively how the items in the cache are retrieved. Stewart does not teach or suggest separately caching the image with various formats and having a cache lookup key based on the identity of the image and the image format. In fact, Stewart does not discuss format-based differentiation of images.

As to the second argument, Examiner would like to point to the previously stated reply for it also applies to this argument as well. Furthermore, it is unclear as to what bases the Appellant has to state that Huang teaches away from using a cache lookup key based on image format. Appellant cites Huang in column 7, lines 43-50, “If a copy of the requested object can be found in the local cache, at step 402, the proxy server checks the cached object against the RHI to see if any further rendering is necessary. Note that the RHI contains the capability specification of the receiving device (i.e. the device that originally requested the object that was just found in the cache). By

checking the RHI, the proxy server 110, 111, 112 can determine if any further rendering is necessary." There is nothing stated in this passage that would suggest that Huang would teach away from being combined with Stewart to teach cache lookup utilizing image formats. The section of Huang teaches that if further modifications or "formatting" is required, it will go through a further process of "formatting", otherwise taught as rendering, if needed to fit the devices needs. The combination of Huang and Stewart teach a cache look-up key based on the identity of the particular photographic image and the image format that is desired. In Huang, if the one image is r(c#s#) "type" or otherwise known as a format and is then changed to d(s#c#) format than the image is now a different type or format. Stewart's teachings of a storage key that can be made up of URL, cookies and authorization information and data type would give an indication that the data type is interpreted as the format of the image, (Stewart, column 11, lines 1 et seq.). Stewart teaches the constant making of a key as utilizing URL, cookies and authorization information and data type and Huang specifically teaches different format types it becomes very apparent that when the image is in its new format it will be applied to Huang's storage key algorithm and the image format will be different from the original image format. Example, image is save using URL, cookies and authorization information and data type, ("r(c16 s 1000")", using Stewart's key algorithm. Now the image format that is desired is not found and is therefore changed from data type "r(c16 s 1000)" to data type d(s1c2), (Huang, column 10, lines 20 et seq.). Now the new formatted image is applied to Stewart's key algorithm as URL, cookies and authorization information and data type d(s1c2). It is reminded to the Appellant that the claim language is void of what the identity of the particular image could be or the form it would take, i.e., name, number, file name, pointer number, etc., and therefore can be left for a

broad interpretation. It is well known in the art that an URL of an image can have the name of an image along with the location of the image, example, <http://www.uspto.gov/image1.gif>, and therefore is a type of identifier. Furthermore, cookies are known in the art to have information about data that was previously requested by a user, this also includes image data, which can also be utilized in identifying an image.

With this interpretation, it is clear that the prior art of Huang and Stewart teach the prior art of record. The similar teachings found in claim 36 are also applied to the discussion above.

**In the Arguments,** Appellant argues in substance that Stewart's key is based on a URL and cookies, but does not teach or suggest including the identity of the particular piece of media and parameters of the requesting client as stated in claim 67.

As to the third argument against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Furthermore, it is known from the response stated above that Huang teaches the specific of a users parameters to display the image on a device as stated in the rendering sections of Huang above.

**In the Arguments,** Appellant argues in substance that the Examiner does not address the limitation that the cache lookup key is based on the device type.

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As to the fourth argument against the references, the section of Huang cited above, column 10, lines 35 – 37, “*the device capability of a personal digital device (PDD), such as a PDA, can be specified as a pair of color encoding and image size, d(c1s2), indicating that the PDD*”, which could be an indication of what type of device is being used in the formatting of an image.

**In the Arguments,** Appellant argues in substance that Huang does not query the device, but rather either receives the device data long with the requests, or generates the device data by a proxy.

As to the fifth argument, Examiner would like to point out that even if the Stewart and Huang didn't teach requesting Appellant admits that the device data that is needed for the invention to operate is still collected and saved so the system can format image data to its specific needs.

Furthermore, if the prior art of Stewart and Huang teaches receiving the device data for performing the same process as described above then it would be obvious to one of ordinary skill in the art that if information is needed to perform a process, the information will be sent to the process whether it was previously sent or queried. Furthermore, it would be obvious to one of ordinary skill in the art that if an error occurred in the system when receiving the device data, the system would send a response to the device stating an error and asking for them to resend the information.

**In the Arguments,** Appellant argues in substance that Huang does not teach that the determining capabilities are based on a device class for the target device. Huang teaches a device

ID and that is not a device class. Appellant further states that a device ID, on the other hand, as is known in the art, identifies a particular device. Two Palm handheld devices will have different device IDs, even though they belong in the same device class.

As to the sixth argument, Examiner would like to point out that in the device ID the system would know that the device is of a handheld type and from the other information given from the device it would still have the knowledge to perform the task of formatting the image. Furthermore, Appellant does not state what the classes are or could be in the claim language. Therefore leaving a broad interpretation. Also there is no limit as to what is in a "class" and therefore one can also interpret a device as being in "its own class" and therefore still reads on the claim language.

**In the Arguments,** Appellant argues in substance that Huang does not teach or suggest determining which metadata should be provided to the target device and that the metadata discussed by Huang is provided to the proxy server for rendering purposes.

As to the seventh argument, Examiner would like to point out to the Appellant that stated in Huang, column 9, lines 55 et seq. it is stated, "*In general, meta-data information can be stored in HTTP request headers and response headers...*". This would give one of ordinary skill in the art the insight that when the request is **responded to**, it is sent to the user's device.

**In the Arguments,** Appellant argues in substance that Huang and Stewart in combination with any of the prior of Foster, Knight, Jackowski, what is well known in the art or Applicant's admitted prior art.

As to the eighth argument, Appellant is asked to view the above responses that can also be applied to these arguments. Furthermore, Appellant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Furthermore, Appellant didn't argue the rejection that utilizes what is well known in the art when the rejection was stated and therefore was an admission that the claimed subject matter under the rejection was well known in the art at the time the invention was made.

**In the Arguments,** Appellant argues in substance that O'Neal is non-analogous art and therefore cannot be used to reject these claims. O'Neal does not teach determining a format that is desired for rendering images at a target device.

As to the last argument, O'Neal is not utilized for this teaching as stated above. O'Neal is utilized for teaching determining user preferences, if any, for the target device. Furthermore, Huang is clearly utilized as teaching determining a format for a target device as stated above. Therefore, the combination of Huang, Stewart and O'Neal teach the claim limitations as described above.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

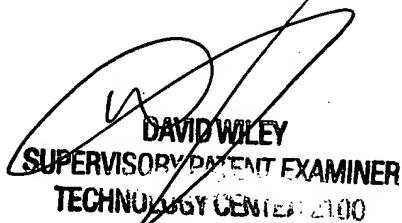
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

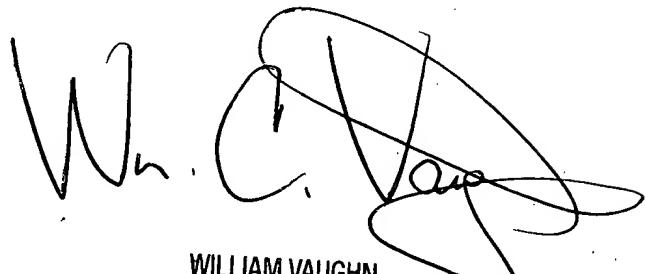
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